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OBSERVATIONS
ON THE
PROCEEDING
OF THE
FRIENDS
OF

THE LIBERTY OF THE PRESS, &c.

DECEMBER 22, 1791.

AND AN
ANSWER
TO
MR. ERSKINE'S SPEECH,
OF JANUARY 19, 1793.

By THOMAS BARNARD,
BARRISTER AT LAW.

LONDON:

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To the READER.

The following Pages were nearly finished when Mr. Bowle's Short Answer, &c. appeared in Print.---The Author, finding he had been anticipated in some Observations, intended to have omitted all the Argument that was similar; but finding part of it so much connected with the subject, that it was impracticable, without much labour, at the persuasion of some Friends, he has published them as they are, trusting to the candour of the Public to believe that it is not impossible for similar ideas to suggest themselves to men of the same profession, in commenting on the same Text.

OBSERVATIONS
ON THE
P R O C E E D I N G
OF
THE FRIENDS OF THE LIBERTY
OF THE PRESS, &c.

HAVING heard some extraordinary propositions stated in a mixed company, which were said to be contained in the Resolutions, Address, or Protest, of the Friends of the Liberty of the Press, I was induced to read over the several proceedings and resolutions with some attention, which, I must confess, either from having little leisure just at that time, or from want of curiosity, I had before omitted to do. Several of them appearing of the most peculiar tendency, and contrary both to law and reason, occasioned me to examine them more particularly. In the outset I conceive that any string of Resolutions, regularly and systematically reduced into writing, and published as the opinions of a numerous Assembly, (many of them men of experience in the world, men of education and erudition, and some even high in the professional line,) may fairly be

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investigated

investigated with a degree of exactness which it would be uncandid perhaps to apply to mere debate. And I have the less scruple in doing this, as the President of the meeting, in order to render any misrepresentation of what then past impossible, had previously prepared what he then delivered. A solemn Protest, or Address, to the People of this country, (for though not in words, I take it to be so in reality) asserting that the grand bulwark of our happy Constitution, viz. *the Liberty of the Press, was in danger*, ought to advance no principle that will not bear probing to the quick, and stand the strictest scrutiny both of law and reason. In the proceedings of the meeting of December 22, 1792, the preamble states; That attempts having been made against the Liberty of the Press, a meeting, &c. was held. Can any thing be a more positive assertion? What proof do they produce of the truth of it, the bare assertion itself unsupported by any one authenticated fact? To pass briefly over their preliminary resolutions, I shall soon proceed to animadvert upon the 5th, where these Gentlemen take upon themselves to state that the proceedings of the Societies alluded to are doubtful as to their legality, and which Mr. Erskine has taken up more strongly in his protest. In some of the above Resolutions, they state that they have seen the formation of these Societies with uneasiness and alarm. Whether there be just causes of uneasiness and alarm I will not presume to say,

say, but I must own, after much enquiry, I am unable to discover any ; and if any such have existed, I apprehend these Gentlemen would not have been backward at pointing them out; but, I believe, on examination, it will be found that that they are contemplated with exultation and applause by a decided majority, not only of the people at large, but of the best citizens. But as these gentlemen have made use of the word *pretence*, * which more than seems to imply a doubt of the sincerity of these Societies, and thereby strongly insinuates that they have some secret motive different from what they choose to discover. I think we may be indulged in some free remarks on their Resolutions without running any risk of offending against the rules of delicacy. As the motives for any action can only be known to the actors, common liberality, I should imagine, ought to make every one, in some degree, cautious of asserting, that what a numerous assemblage (of men of the first property, character, and respectability, and of unsullied reputation ;) solemnly

* That we have therefore seen with uneasiness and alarm, the formation of certain Societies, which, under the pretence of supporting the Executive Magistrate, and defending the Government against sedition, have held out general terrors against the circulation of writings, which, without describing them, they term seditious, and entered into subscriptions for the maintenance of prosecutions against them; a proceeding doubtful as to its legality, unconstitutional in its principle, oppressive in its operation, and destructive of the Liberty of the Press.

declare to be their motives are only pretence; and perhaps more particularly so, when not even a single fact is advanced, or shadow of evidence produced to the contrary. Let us try the conduct of these Gentlemen by the same rule. Would they think it liberal or fair to have their motives impeached in such a summary manner? Were their adversaries inclined to indulge in such kind of observations, they might be tempted to point out to the nation the very peculiar time these Gentlemen have chosen for their meetings. They might observe a certain party foiled in another assembly in attempts to impede the Executive Government, which, thank God, beyond controversy, is now supported by an almost unexampled confidence of the country in general. They might comment on their endeavour to regain their lost popularity, by first, in raising and conjuring up imaginary dangers, that they might afterwards assume credit to themselves, by standing forth as the champions of a cause unassailed and unmenaced. Many other remarks of the same kind might be made; but as mutual invective can by no means further the argument on either side, let us dismiss it, and proceed to proof. These Gentlemen accuse others of irritating the public mind, and occasioning a considerable fermentation by a too highly coloured representation of visionary dangers. Whether the same charge does not in some measure recoil on their own heads,

heads, will be for the People to determine, before whose tribunal we are ; who must, and will judge of the motives assumed by both parties. And whether the alarm sounded by the one, that the Constitution was in danger of being overwhelmed by anarchy and confusion, or that of the other, that the Liberty of the Press was menaced, be more consistent with truth—the Societies alluded to profess their admiration of, and their zeal and readiness to support the British Constitution. As a material part of that support they profess also to come forward with every assistance in their power in case of tumults to co-operate with the Executive Government in order to quell them more easily, and to prevent them as far as possible, to bring to justice every author or publisher of seditious pamphlets. They have also distributed treatises and tracts, for the purpose, if possible, of remedying any evil which may have been caused by writings of pernicious tendency, and thereby to calm the too much agitated minds of their fellow citizens ; and have also entered into subscriptions for the furthering the above purposes.

This I take to be nearly the purport of the Resolutions of most of these Societies. One should imagine from the objections of these Gentlemen, that the only Resolution entered into by these Societies, had been to endeavour to stop seditious publications, &c. as that part alone seems to be taken notice of by these cavillers at their proceedings. Had that been so, would
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it have carried with it any very extraordinary appearance, when we consider the art and industry that had been used to circulate cheap editions of Mr. Payne's book, and other writings of that tendency. But it appears on enquiry, that this is only a part of their intended support, most particularly calculated indeed, to meet the apprehended danger. The wisdom of our ancestors has confined the Executive Power within such narrow limits, that in times of particular emergency it stands in need of extraordinary assistance and support. Hence the Legislature on such occasions frequently has thought it prudent to arm the Crown with unusual powers, has suspended the Habeas Corpus Act, an Act of all others most calculated to restrain any undue exertion of the prerogative against the liberty of the subject. The support particularly requisite on this emergency, and which it most obviously stood in need of, in order to keep the seditious in awe, and more immediately to repress their attempts, was, that the *People* should come forward, and shew themselves friends of the Constitution, and firm in support of it. *The people* at large felt the force, truth, and necessity of this, and acted accordingly. They felt it becoming their character as good citizens, as lovers of order and true liberty, no longer to remain torpid or inactive spectators of the impending danger. They did come forward, and the salvation of this country, I believe, was the consequence of their laudable and timely exertion.

Mr.

Mr. Erskine positively stated that the power of accusation is not given to uninjured individuals ; and on that proposition has founded a considerable part of his argument. As every thing that falls from that Gentleman upon legal subjects, and particularly when given as his premeditated opinion, must carry a considerable degree of weight with it, it may not be a loss of time to shew from legal authority, uniform and immemorial custom, and even the analogy of the law, that what that Gentleman then advanced, is erroneous. The order that I shall pursue in the following pages, will be, 1st, To shew the fallacy of that proposition from custom, authority and analogy.

2dly, That as there is nothing illegal or unconstitutional in these Associations, or in their prosecuting offenders of any description, or that it is likely to produce any bad effect, by improperly prejudicing Juries.

3dly, The propriety and expediency of them, particularly in such critical times.

Lastly, a short compendium of the principal events which have taken place in France, and a concise review of its late and present situation, as it may affect this country, in order to warn my countrymen from rash speculation.

Mr. Erskine positively asserts, that the power of accusation according to our constitutional polity, was not given to uninjured individuals— That I as positively contradict, and assert, that
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by the common law, even from the earliest ages, every individual was not only allowed to prefer an accusation, but that it was his bounden duty as far as in him lay to bring every offender to justice. I defy this Gentleman to shew a single dictum to the contrary. If the above proposition were law, we should find it in our books. But no such law ever existed in this country, and the uniform practice of ages has been to the contrary—a practice at once salutary, and never till this moment imagined to be oppressive. The wise regulations of the great Alfred seem to have been particularly calculated to oblige every individual to use all exertions to bring offenders to justice. I think the contrary principle would be most dangerous, as it would fling a power into the hands of the Crown, unheard of in our Constitution; and was this proposition once to be established, it would overturn every principle on which the penal law of this country has been immemorially conducted. It would render the law rather the property of the sovereign than of the community at large; and were the servants of the Crown once supine, doctrines the most dangerous might be openly promulgated, and the most horrid transgressions perpetrated with impunity. Are the ministers of justice negligent, must the people therefore be inactive? Have they no interest in the peace and quiet of society? Is that boasted birth-right of Britons, viz. the law to be dealed out in scraps, as may suit either the whim
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for convenience of the Officers of the Crown. Much as I esteem the Gentlemen at present in office, I should be extremely sorry that public justice should so depend upon them; much more so, that future generations should depend upon their successors. Let us put one instance, viz. In the case of a riot, who will be bold enough to say that it is illegal for any to prosecute the parties concerned in it, but those who have been actual sufferers by their criminal excesses? Monstrous absurdity! Can any thing be conceived in a free country less congenial to rational liberty. What, if my neighbour's house be set on fire, and he, either through weakness, ill-timed lenity, or any other cause, should be unwilling to prosecute; may not I stand forward, and bring the offenders to justice? It is admitted that accusation by uninjured individuals is no where forbidden. Having, I hope, proved that it is not totally unreasonable, I shall now proceed to shew, it is at least, in some measure, acknowledged in our books. Mr. Justice Blackstone, in his Commentaries, vol. iv. ch. 23. speaking of the Grand Jury, says, that, "after having received their charge, they are to withdraw, to sit and receive indictments which are preferred to them in the name of the King, *but at the suit of any private prosecutor.*" Had this learned Judge, who was remarkable for his accuracy, ever dreamed that it was necessary to be injured to constitute a man a lawful prosecutor, could any thing have been more easy than to have added a clause to that purpose? But knowing that it was com-

petent for every man to accuse, he has very properly made use of a general term. Again, in the same chapter, he says, "The King is bound to prosecute, or at least to lend the sanction of his name to a prosecutor whenever a Grand Jury has informed him that there was sufficient ground for instituting a criminal suit." Here you find a prosecutor, injured or uninjured, may first go before a Grand Jury, and then if the bill be found, the King is *bound* to lend his name.— But does our law in no instance enjoin an uninjured individual to accuse? Surely the visionary dangers which they imagine that the Liberty of the Press is exposed to, has weakened their recollection, and obliterated from their memory no inconsiderable title in the code of our criminal law, viz. *Misprision, both of Treason and Felony*. I shall not enter into any legal definition of the crime, but shall content myself with stating, that the bare concealment of the offender, even *without consent* to the crime, is in itself a heavy offence. The full definition and authorities on this head will be found referred to in Mr. Justice Blackstone's Commentaries, vol. iv. ch. 8. Here let us pause a while, and seriously ask, whether the Law and Constitution does not in some measure, in this instance at least, give the power of accusation to uninjured individuals? The answer is most obvious, that it not only gives that power, but considers even neglect and delay, though *without consent* to the crime, as culpable, and enjoins,
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under the heaviest penalties, that an accusation should be preferred before a magistrate. Now, with great deference to Mr. Erskine, if I may be permitted to reason from analogy, and apply the principle of the express uncontroverted law on this head, (and I own I cannot conceive but that the same principle, which declares the culpability of concealing the perpetrators of treason and felony, is equally applicable to every other public breach of the law, and to every other crime), I take it to be the duty, and consequently meritorious in every subject, be he injured or uninjured, to bring to justice all offenders. The majesty of our law considers not individuals, except for their protection, perfectly indifferent who may bring forward the accusation, the end being substantial justice; its enquiry is not, whether the prosecutor be injured; but whether, under all the circumstances of the case, the party called upon for his defence, be innocent, or has incurred the penalties due for the breach thereof.

The same paragraph, after asserting, the power of accusation is not given to uninjured individuals, thus proceeds; "*still less to voluntary, undefined, unauthorised, Associations.*" I own I do not comprehend how, if no power is given to uninjured individuals, *still less is given to Associations.* But, however, I presume it either means to disapprove of them in general, or of their particular conduct at this crisis. I shall, therefore, now proceed to shew, that they are neither illegal in them-

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selves,

selves, nor unprecedented; and that, at these times, they are peculiarly salutary and expedient. It is granted that they are no where forbidden. Now, it has always been considered as one of the greatest privileges so much boasted of by Englishmen, that it was competent for them to do any act or acts which the law had not prohibited. But let us examine them a little upon the principle of Reason and Law.—The main argument, that the power of accusation is not given to uninjured individuals, having been fully proved to be unfounded, the superstructure must, I think, fail. I will recur again to the law of misprision. It is criminal in A, B, C, &c. and all their neighbours, individually, not to discover, with all convenient speed, to a Magistrate, the perpetrators of certain crimes; or, in other words, not to accuse them; if they neglect so to do, they are liable to severe penalties, and esteemed in law inferior only in guilt to the participators of the crime. It therefore follows, and I shall, without hesitation, declare it to be their duty so to do, and consequently, meritorious in them as individuals. Now I must confess it is past my comprehension to conceive by what rule of law, by what canon of morality, or by what principle of reason, or of our constitutional polity, that which is the duty of A, B, and C, to do separately, can be wrong for them either to do, or to pledge themselves to do collectively, or under the form of an Association. Is it not the bounden duty of every member of the community

nity to support the existing laws when called upon? Can we then suppose it to be wrong for them to do it voluntarily? Can the idea of Associations so alter the immutable nature of right and wrong, that an act which each in his own proper person ought to do, can become culpable, because done by a majority of the inhabitants of a township or district associated for that purpose? Do the Gentlemen mean that all Associations are in themselves improper? I should apprehend they are by no means inclined to assent to that proposition in the full extent. Did one ever hear that the numerous Associations established through various parts of the kingdom for prosecuting felonies, &c. were illegal?—Was there ever a single conviction questioned on that head?—Would any of the learned Gentlemen venture to move in arrest of judgment; that the author or publisher of a public libel was prosecuted either by an uninjured individual, or or by any Association?—On one of these heads, if I have been rightly informed, an honourable Gentleman once had an opportunity, if that had been his serious opinion, as the prosecutor of the Dean of St. Asaph was no other than a private uninjured individual. These Associations, I confidently affirm, by no means prevent the law from flowing in its proper and usual channel; they deprive not the Defendant of any advantage in the course of the proceedings he is legally entitled to; should he think individuals on the Jury to be warped by any prejudices, he is still permitted to

to challenge them, and even the pannel itself, on a proper cause being shewn. Add to this, if individuals or Associations oppressively prosecute any one, they are liable to punishment either for a malicious prosecution or conspiracy; and civilly, may be amerced in such damages as a Jury shall award. Will the good sense of Britons, will the lively affection, and the almost enthusiastic admiration which they have for their Constitution, bear to be told that they must not associate to prevent its destruction, while the disciples of Mr. Paine, that grand apostle of anarchy, openly coalesce for the purposes of sedition. Shall it be permitted for the demons of confusion to use all industry, and employ themselves daily and hourly in distributing pamphlets of the most dangerous tendency, and shall it not be lawful for the advocates of order both jointly and separately to apply an antidote co-extensive with the poison?—Can any thing so monstrous be supported for a moment?—But then it is said these associations are, or at least may become so general that an unprejudiced Jury will hardly be able to be impannelled; for that, I think, is the upshot of the passage in the 5th page, near the end, speaking of a Jury coming *reeking* from a vestry room, &c.—Does it mean that the Jury will come so prejudiced, that the Defendant will not have a fair trial?—If that be so, a more gross libel, or more illiberal, intemperate invective against the People, of whom Juries are composed, (which these Gentlemen

tlemen sometimes pretend to be such ardent admirers of) I never yet heard. A position is assumed, and then argued upon as if proved. Will they presume to say that they will not coolly weigh the evidence offered on both sides in a fair and even scale? No, the most audacious will hardly dare to declare it openly and directly. The next insinuation is, that these proceedings, viz. of the Associations, must evidently taint the administration of justice in the superior courts.—Wretched sophistry! Have you proved that it has, or must in any instance, or that it is even probable that such a consequence will follow? How are the proceedings in the superior courts tainted? I challenge you to the proof. Is every thing to rest on mere assertion? Is the as yet unfulfilled ermine of our Judges to be thus accused of pollution? Is the whole body of the magistracy to be thus calumniated? Is the honest, independent yeomanry, and the as yet unvitiated minds of the sturdy country freeholders, (unwarped and immoveable as their native oaks) to be supposed at once so lost to reason and to every sentiment of honesty, liberality, and religion, as to find a man guilty merely by the persuasion and collusion of their landlords. The people certainly will be highly gratified with the good opinion you entertain either of their sense or their honesty, and accordingly reward you with their confidence.—But has any thing of the kind disgraced any, even the most inferior courts?—I will venture to say,

say, none; otherwise it would not for any length of time have been so kept in the back ground— Let us contemplate for a moment the black annals of human depravity?—Does not the idea of rape, arson, and murder excite the strongest sensations of detestation and horror in every feeling heart? But does it therefore follow, that the criminal has not a fair trial? Have we ever heard that in point of fact it has happened that, because the Jury detest the crimes, (and every person fit to be a jurymen must necessarily do so) they are so far incensed and prejudiced against the supposed criminal, that the course of public justice is perverted. Our Juries have been seldom accused of being over sanguinary, and many notorious offenders, guilty of crimes of the deepest stain, have escaped by their, perhaps, too guarded, but lenient caution. Can it then reasonably be supposed that, if crimes of the most shocking nature fail to inflame or prejudice the minds of a Jury, and that when they can calmly and dispassionately try the murderer and the ravisher, the same men will not use equal caution, equal coolness, when, under the awful impression of a most solemn oath, they are deliberating on what verdict they shall bring in respecting the author or publisher of seditious libels—The spirit of Britons revolts at such an idea; they feel their independence, and know themselves and fellow-citizens incapable of acting so dastardly and unconscientiously; a part that could only be acted by cowards, and the most foolish,

foolish, brutal, and detestable of mankind. In regard to the principle of persons impeached by the House of Commons, I shall only observe, that though misdemeanors are tried at the bar of the House of Lords, in case of an impeachment for treason, or any other capital offence, justice takes its usual course, and the offender must be tried by a Jury of his Peers, only perhaps with this difference, that there is no need of the intervention of a Grand Jury to find the Bill, it having been already presented by the Grand Inquest of the nation, viz. the Representatives of the People in Parliament assembled.* The solitary instance to the contrary, where the Lords tried a Commoner, expressly declares, that they only did it on account of the enormity of his crimes, and that it should not be drawn into a precedent. So we see, that by our law, even when the complaint proceeds from the *popular branch of our Government*, whenever a man's life is to be brought into jeopardy, a jury of his equals is to decide between him and his accusers. I take it, therefore, that the reason assigned by Mr. Erskine cannot be right, as it is impossible to suppose that the law would be so tender of the subject in cases of misdemeanors, while, on the other hand, in cases that affect his life, he may be overwhelmed by the weight and dignity of his prosecutors. But the real truth is, our law never conceives it difficult to get an unbiassed Jury in any

* Vide Mr. Judge Blackstone's Comm. vol. iv. cap. 16.

matter, and, as more consonant to our free Constitution, would rather trust the accused, in the hands of his equals, than to the most august tribunal known in this country.

But now let us consider, whether, in times of public danger, there be any thing new or unconstitutional in the idea of associating; and whether the Associations alluded to, differ materially from the former in principle?—I take it to be at all times proper to associate for the defence of the Constitution, or such part of it as may be deemed most in danger, and appears to be particularly threatened. When I speak of the Constitution of this happy country, I mean, as settled at the Revolution; from which time, we may boast of a Government embracing the best parts of the three species most commonly known, viz. Monarchy, Aristocracy, and Democracy, mutually acting as a counterpoise to each other. From the uniform experience of ages, it is clear beyond controversy, that true Liberty cannot exist permanently, or in any degree of perfection, without a due proportion of restraints; multiply them too much, Tyranny and Despotism begins: on the contrary, diminish them too much, it never fails, shortly to degenerate into licentiousness, anarchy, and confusion. For without due subordination, the peace and harmony of society cannot exist even for a moment. The Constitution then established, seems to have hit upon that happy medium, but was not permitted to be settled permanently, without various secret attacks

attacks from domestic foes, and open foreign hostility. On one of these occasions, how did our ancestors act? Did they leave every thing to the powers concentrated in the then existing Government?—By no means: they recollected how their forefathers stood forth in the time of Queen Elizabeth, who, in the year 1584, formed a general Association of all degrees and conditions of men, and accordingly came forward to assist the Government, then almost tottering to its base. I allude to the proceedings and to the Association in the year 1695. Let us consider the danger that then most immediately threatened this country. A plot had been discovered to assassinate the King, and to restore James, who was to have been assisted by a considerable French army; and his adherents, with great signs of exultation, threatened an almost immediate insurrection.—What was done in this dilemma? An Association was instantly formed by the well-wishers of the Revolution, which was soon afterwards adopted by the Commons, (who, after some strong, but ineffectual struggles by several individuals, at length compelled all their members to take the same), and then, with some trifling variations by the Lords. The wisdom of this Association was so apparent at this time, that it was adopted shortly after by the Legislatures, both of Scotland and Ireland. There was likewise a Resolution of the House of Commons, that whoever should *declare the Association illegal*, should be deemed an enemy

to the kingdom. This Association did eminent service in rousing the nation, and in distinguishing the adherents of Government, and gave an efficacy to their measures, and it soon afterwards received a parliamentary sanction; and all officers and others in public trusts, were compelled to take the same. The preamble to this clause, Act of 7 and 8 W. III. chap. 27. clause iii. and the Association itself, are not unworthy of notice.—“ And whereas
 “ there has been a horrid and detestable conspiracy,
 “ formed and carried on by Papists, and other
 “ wicked and traiterous persons, for assassinating
 “ his Majesty’s Royal Person, in order to encourage an invasion from France, to subvert our Religion, Laws, and Liberty, We whose names are
 “ hereunto subscribed, do heartily, sincerely, and
 “ solemnly, profess, testify, and declare, That his
 “ present Majesty King William, is rightful and
 “ lawful King of these Realms. And we do mutually *promise and engage to stand by, and assist each other to the utmost of our power*, in the support and
 “ defence of his Majesty’s most sacred Person and
 “ Government, against the late King James, and
 “ all his adherents: And in case his Majesty come
 “ to any violent or untimely death, (which God forbid!) we do hereby further, freely, and unanimously, oblige ourselves to unite, associate, and
 “ stand by each other, in revenging the same upon
 “ his enemies, and their adherents, and in supporting
 “ and defending the Succession of the Crown, according to an Act made in the first year of the
 “ Reign

“Reign of King William and Queen Mary.” I before stated, that the danger which then most eminently threatened us, was, assassination of the King, together with internal insurrection, meditated by the partizans of the late monarch, to be supported by external force from France. To these points, therefore, the minds of the then vigilant supporters of Government, many of them men of genuine and unsullied patriotism, were principally directed. We do not read of any attempts at that time to support the adverse cause by seditious publications. And therefore, it would have been quite a work of supererogation to have opposed the circulation of what, at that time, nobody would have dared to publish or even utter. Will any one say that, had any pamphlets of a pernicious tendency been openly dispersed at that time, those illustrious and spirited Citizens would have been tardy in stopping their circulation? Even in the time of Elizabeth, it had been declared treason to publish any thing to *impugn* her title. Writing in defence of the Pretender’s claim, was likewise declared to be so in the time of Queen Anne. From thence we may see that there is nothing new in the idea of restraining the people of this country from endeavouring, by writings, to subvert the existing Government; still less impropriety can there be in repressing those writings, which not only tend to subvert the Government, but also to demolish the Constitution itself—some, even to dissolve the bonds of Society.—Conceiving
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it the duty of every subject, equally to defend the Constitution from being secretly undermined, as from open attacks, sanctioned by principle, and the precedents, both in the time of Queen Elizabeth's and King William's reigns; both afterwards approved of by Parliament, I pronounce most boldly, that Associations for such purposes, are legal, meritorious, and constitutional. The legality of them has been lately solemnly announced from the Bench. But, say these Gentlemen, by associating to stop the circulation of writings of, what you may call, a seditious tendency, the freedom of the Press will be endangered; no one will dare to publish speculative opinions on Government in general, or be able safely to declare their thoughts on men and measures, an undoubted right of every Englishman.—To that, I readily answer, the true, genuine Liberty of the press, so dear to every well-wisher of the Constitution, the manly discussion of every political measure, or form of government, the freedom of thought, and the open communication of it, is neither menaced nor attacked. No honest man need fear the Associations to prosecute felony, or in any other instance to support the laws.—No more will these endanger the Press. All that is aimed at, is only to restrain the extravagant licentiousness, into which, this freedom of the Press has so wantonly degenerated:—That Press, which daily teemed with productions, not only hostile to this Constitution, but which inculcated principles,
utterly

utterly subversive of social order, directly tending to introduce the horrors of anarchy and confusion, and to dissolve every tie which unites man to his fellow creatures.—In a neighbouring kingdom we have seen the melancholy effects of these principles. What will the public think of those who surveyed such circumstances with a calm indifference, almost bordering upon apathy, when they see them now to be so suddenly roused at the imaginary dangers they fancy the Liberty of the Press to be threatened with, and to feel themselves on a sudden so tremblingly alive in every nerve at the phantom they themselves have raised; at a time too, when almost all the community, except themselves, alarmed with a lively sense of real danger, have arisen, with an unanimity little known on former occasions, to stem the torrent of confusion; and, as a means of so doing, to stop the circulation of French principles. That Libels and papers of seditious tendency ought to be discouraged, if any can suffer themselves to doubt for a single moment, I cannot do better than to refer such men to the no less remarkable than energetic words of a late Chief Justice of the Common Pleas, I mean the venerable Earl Camden, (a name that ought to be revered by all true friends of the Liberty of the Press, he having uniformly, through a long and laborious life, been a strenuous, vigilant, and undismayed assertor of it), who, in giving judgement in the memorable case of *Entick and Carrington*, after having adjudged

judged the illegality of General Warrants as the unanimous opinion of the Court, with an almost prophetic voice, concludes thus:—"One word for ourselves:—We are no advocates for Libels; "all Governments must set their faces against them; "and whenever they come before us and a Jury, "we shall set our faces against them; and if Juries "do not prevent them, they may prove fatal to "Liberty, destroy Government, and introduce "Anarchy; but Tyranny is better than Anarchy, "and the worst *Government better than none at* "all."

Having, I hope, satisfactorily proved that there is nothing illegal in these Associations, and the necessity of stopping the licentiousness of the Press, and that the notion of its freedom being in danger was a mere chimera, which existed only in idea, I shall proceed now to make a few observations on the expediency of them. But first, I cannot entirely pass over that expression in the paper signed by Mr. E. viz. "that an alarm has been spread by the Ministers of the Crown, &c." That which was intended as a sneer at the Ministry, is, in reality, telling the people they have been so extremely weak as to have been completely duped; (a very fine compliment indeed to their sense,) and that they should infer from the mere assertion of these Gentlemen, that the whole alarm was created by the Ministers for some sinister purposes, and without any just cause. There let the People judge between us,—Will they tell you they saw
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with unconcern those Clubs formed under the specious pretence of reform, but in reality for the propagation of doctrines inimical to our Constitution employed in dispersing seditious papers, and some of them proceeding* to more serious lengths, viz. actually entering into correspondencies with foreign Societies. If that be the opinion of the generality of our fellow citizens, I will then acquiesce in its being merely a ministerial alarm. But I own it must be something more than mere frothy declamation, to persuade me, that the most enlightened of our fellow citizens did not in their conscience feel cause for anxiety at these proceedings, and particularly when the French *so kindly* offered their fraternity. Was there nothing uncommon, nothing particular to strike our minds, when we saw Mr. Payne's, and other pamphlets of that kind, dispersed by subscription, emissaries sent, and *fraternal* correspondencies entered into with the Jacobins. The French arms supported by pecuniary assistance from this country, and the National Assembly, so far flinging off their disguise, as to receive Addresses from our discontented Societies, with exultation and applause. Were not attempts made to separate the Parliament from the People, by insinuating that their interests were distinct? Were not our manufacturers tampered with incendiary harangues held forth at

* Vide Addresses, &c. to the National Assembly from certain Societies published by Debret.

their meetings?—Could an honest Citizen even walk the public streets, particularly after dark, without his ears being accosted with seditious murmurs, in which two parts out of three which compose our Legislature, were represented to be useless. Some are so blind, that they will not see, they will not be convinced, even if Lazarus should arise from the dead.—This is no exaggeration—my countrymen saw these things, they felt, and resented them.—If any thing here be misrepresented, the Public, who saw all, will mark me as a calumniator. But why should I, even for a moment, doubt what their sentiments are?—they have sufficiently declared them by following, almost unanimously, the patriotic example of their ancestors in the years 1584 and 1695, (both afterwards approved by Parliament,) and they agreed to stand by each other and the Constitution. The only question was, how they should most efficaciously repel the danger?—Did that danger proceed more from foreign hostility openly declared, or from dangerous insidious emissaries, or perverting the honest enthusiasm of their fellow citizens, and contaminating their minds by false representation of imaginary grievances?—They were too well acquainted with the spirit of Englishmen to dread avowed enemies; but thinking it more wise, *venienti occurrere morbo*, or that prevention was the best policy, they endeavoured to anticipate the effect by removing the cause. They found that incendiary publications had caused a
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great ferment in the minds of many ; they found that the principles inculcated in them could produce nothing but disorder, and therefore determined by all legal methods to endeavour to stop their circulation, little dreaming that any Society of their own countrymen should blame them for such efforts, or that their honest endeavours to preserve quiet and order, should be thus condemned.—Little did they conceive that any set of men would dare so to misrepresent their patriotic intentions, or have the hardiness to attempt to mislead the Public by insinuating that this check to the licentiousness of the Press, was an endeavour to controul its manly, salutary, and constitutional Liberty. The idea of its Liberty being in danger must be considered, by all sober-minded men, rather as the effervescence of a heated imagination, than as the deliberate conclusion of Reason, unless, (what I am very unwilling to believe to be the fact) it ought to be deemed premeditated misrepresentation. These Gentlemen always pretend to have the greatest deference for the opinion of the People.—How is that opinion to be collected ? —Is it from the voice of their Representatives in Parliament ? or is it to be collected in their Declarations elsewhere ?—Take which you will, and you will find it explained in a most unequivocal manner. In Parliament, a most decided majority leaves no room for doubt ; out of Parliament, it has not been less emphatically expressed. But now, forsooth, certain people have found that

their fellow countrymen have been totally deceived by the Ministry, that their senses are annihilated, their understandings clouded, and every enlightened faculty overwhelmed by a torrent of temporary frenzy and confusion.

The proceedings of the French Government can never be a matter of indifference to this nation.—What has been their political character for ages?—Can any one say it has not been that of attempting to aggrandize themselves at the expence of their neighbours? and that not by open force alone, but more particularly by dark, underhand cabal and intrigue, always proceeding as if their maxim had been *Dolus* *sanctus* *virtus* *quis* *in* *hoste* *requirit*, equally ready to attain their ends by force or treachery —As a nation always perfidious, even the grandest of their monarchs has been more than once suspected of acquiescing in assassination. Has not England been the Power which has so often stopped them in the full course of their dangerous projects? They have never been other than doubtful friends, always ready to take advantage of the first opportunity of distressing us, and it has been necessary for our Ministers to watch uniformly their political proceedings with an eye of the most scrutinizing jealousy.—Now let us examine whether their conduct since the Revolution has been such as to conciliate the esteem, and to encrease the confidence of this Nation; and whether their public proceedings have been marked with such good faith and candor,

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as to obliterate the former national jealousy and antipathy. To be able to form any opinion on that head, it will be necessary to run over, in a summary manner, the principles developed, and the chief occurrences that have happened since their late King first called together the States General—In the outset, I beg leave to ask, is there any one principle they set out with, which they have not violated?—That they began with no fixed or settled plan, is perfectly clear; they never seem to have considered, that though most people can pull it down, there are very few who are able to construct a firm, durable, and magnificent edifice. Their minds were so warped, that, as soon as they perceived they had any thing like power, in practice at least, they considered amendment and destruction as the same. This nation would have exulted in seeing their neighbours delivered from oppression, had they but known when and where to have stopped. We only lamented, but were not much surprised, at their suddenly going from one extreme to the other; unable steadily to bear the new, and to them dazzling, light of Freedom, they precipitately passed all the boundaries which Nature and Reason had dictated, and madly plunged into the vortex of licentiousness. The mild complacency of their Monarch, unhappily for himself, unhappily for his people, acquiesced but too much in every thing which the delusion of the moment demanded. The Legislators forgot that Liberty was new to them, and that all

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were not sufficiently eagle-eyed to look against that Sun in its full meridian blaze. After various struggles, they formed what they called a Constitution, of which Monarchy was the head, though they foolishly curtailed its powers within such narrow limits, as to render it feeble, contemptible, and inefficient. But such as it was, they pledged themselves to support it, and repeatedly swore to be faithful to the Nation, the Law, and the King.—How has that oath been kept?—That Nation has been by them reduced to a degree of unexampled distress—that Constitution, after having been repeatedly violated, has been utterly subverted—that Law has been most shamefully broken—that King (whom they themselves lately stiled the Restorer of Liberty), has been basely murdered—he was declared inviolable only to be violated, and to fulfil the measure of the most consummate moral and political iniquity, under the pretence of Law, when no such existed, without even the shadow of evidence to support the accusation—they condemned this unfortunate Monarch to suffer on a scaffold.—Oh Justice! is thy sacred name to be thus prostituted? Are thy functions to be thus polluted? Are these the first fruits of Liberty?—What has been the effect of these barbarous proceedings? Let us contemplate what the French Nation was; let us if possible, turn our head from what is. Lately great in Arts, great in Arms, respected likewise throughout all Europe; now the very name of Frenchman

man is held in detestation.—Plenty reigned through their fields; fields blessed with a degree of fertility known but in few climates, and the labourers, in some degree of security, enjoyed the honest fruits of their industry.—Now Agriculture is almost extinct.—Famine and Desolation pervade that so lately plenteous Country, and seem, as it were, to have swept its once flourishing Provinces with the besom of destruction.—Their national revenue is destroyed, and commerce in a state of stagnation—their manufactures gave bread to numberless families, but now, alas, quite annihilated;—the wretched artificers are either starving, or forced to enlist, in order to prolong a miserable existence;—their Colonies have fallen a prey to intestine dissensions—their Plantations are consumed by fire, or in ruins;—of their possessors, many are murdered by their Negros; the rest, driven from them, are forced to seek refuge in the neighbouring islands. Can we wonder at it when their Senators hesitate not to say, “Rather perish our Colonies than a *principle* be violated.—What is, or at least, what ought to be the end of all Governments, but the preservation and happiness of that part of mankind more immediately under their rule, and every principle that does not tend to that great end, is unworthy of a moment’s consideration.—In an Assembly actually exercising the Government of a great Nation, when such language could be tolerated, as that their subjects might rather perish than a principle be

be violated, can we wonder at any evil, or any calamities, tney may have been afflicted with?—The wisest of mankind have held, that the safety of the People is the supreme law; but it is reserved for the light of this new Philosophy to discover, that they had better perish than a principle be violated.—Their Nobility is persecuted, exiled, and almost extirpated, Religion despised, and the holy shrines sacrilegiously stripped; the Church robbed of its property, and its most respectable and conscientious Ministers either assassinated at home, or compelled to seek a miserable and precarious asylum in foreign countries. Gracious God! is this Reform?—Are these to be the consequences of Liberty, and first fruits of Equality?—But still have we scarcely enumerated half the misery; the cultivation of the politer Arts and Sciences had humanized them;—now, every thing that bears that appearance is neglected;—a barbarous ferocity, that defies every attempt at description, pervades all (having converted even the softer sex into furies) and obliterates every vestige of Humanity, Benevolence, and Christianity.—We have seen the capital a prey to murder and licentiousness, the prisons broke into, and their wretched inhabitants butchered, after having been insulted with the mockery of a trial; and innocent, uncondemned women, torn from their friends and relatives, massacred with a degree of brutality and barbarity, attended with circumstances so shocking as to be unheard of even among

among the most savage tribes of Indians. During the perpetration of such atrocities, what power was there in existence to give any check to these ferocious villains? We may readily answer, none. Have they yet lost their influence over the feeble, cowardly senators?—By no means; for they themselves, equally distrustful and distrusted, have been forced by intimidation to decree impunity to these murderers, to the blood thirsty assassins of the 3d of September.—Is not every Englishman ready to exclaim,—Is this the boasted Liberty?—Is this the Equality?—Is this the Fraternity they proffer us?—Is this the example they hold forth for our countrymen to follow?—Before we change our situation, let us examine whether the profit be worth the risk?—We enjoy rational Liberty, we detest Anarchy, we abominate the Fraternity of Murderers, we revere Religion, and respect its Ministers; we are not to be duped out of real blessings by the specious fallacy of your offered Equality; what is it but an empty name, which they themselves have been forced to explain away? Nothing of the kind ever did, or can exist in reality. We behold a regular gradation pervading all Nature. Society cannot for a moment exist without it.—Is the fool in a state of equality with the wise? the illiterate with the learned? the coward with the brave?—We love our King and his Family, and reverence the regal authority. The great property which some of our nobility enjoy tends to the encouragement and increase

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of trade, and gives bread to thousands of industrious artisans. They have no exclusive privileges or exemptions that injure the People. Our ancestors once tried the mad experiment of cashiering them; years of confusion were the consequence, and no small portion of the best blood of this country shed in civil contests. Beware, therefore, ye rash and innovating speculators, take warning from experience. We feel no oppression; the laws protect the poor equally with the rich. 'Tis true, our taxes are high, but then our trade and our manufactures flourish. Will the destruction of them, the introduction of anarchy, the subversion of both public and private confidence, tend to lessen them? Though their Government was oppressive, our's is not so. We should have rejoiced to see a great nation emancipated from the thralldom of despotism; but instead of one, we see multitudes of oppressors. We see nothing like security for individuals, or safety for private property; the Government is one day that of the mob, the next that of the bayonet.—Such reflections being extremely obvious, have probably before this time suggested themselves to my readers on the internal œconomy of that devoted country, now let us for a while contemplate their conduct as it regards the rest of Europe. We shall there see equal versatility, and equal insincerity. They set out by renouncing a war of conquest; they usurp Avignon from the Pope, and, on the first dawn of success, add Savoy as an 84th Department

ment to their dominions, and by the *Fraternization* of Brabant, encrease their power to a degree of magnitude incompatible with the security and independence of Europe. How was the fraternity of Brabant accomplished? Was it by the free, uncontrouled assent of the inhabitants?—No; they were first robbed and plundered, and then dragooned into consent. Surrounded by an armed banditti, with loaded artillery in front, and bayonets in the rear, what resource remained for the wretched inhabitants but unconditional submission. Here we see a practical explanation of their proffered fraternity. The Belgians will now tell you, that they never experienced such oppression under the most abhorred of their monarchs as under the kind fraternal embrace of the French; under what they before considered as the most insupportable yoke of Despotism, their lives and properties were more secure than under the so much boasted reign of Liberty and Equality. Tyrants themselves held religion and its ministers in respect, and with a kind of reverential awe, forbore from touching the treasure contained in the churches; but these hell-hounds of rapine leave nothing untouched, deem no place so sacred, as to be exempt from their inquisitorial search, no seminary so hallowed, as not to be profaned by the rude and griping investigation of their armed extortioners. In direct violation of treaties, (which they knew the Government of this country had pledged the public faith by a most so-

lemn guarantee to support,) they declare their determination of opening the Scheldt.—Were we to have deserted our Allies for the specious jargon of imprescriptible rights, to have remained inactive until, by overwhelming them, they had nearly compleated their plan of aggrandizement, and, by their infernal machinations, have crippled us by creating domestic dissensions, and rendered us incapable of affording any effectual barrier to the mad career of their towering ambition? For this purpose, emissaries were dispersed by them through this kingdom, to disseminate those pestilential principles, which tend to disunite People from their Governments; and, in short, every art employed to disturb our intestine repose. Reform was the watch-word made use of to catch the weak but enthusiastic minds of the unwary. The necessity of Reform was re-echoed by their leaders, as if our existing Government had been nothing but a complicated mass of corruption and oppression. When the Party which countenances these principles was in power, what Reform flowed from them? Was any even attempted? Had that been the case, perhaps some credit might have been given to their professions. What avail laws without morals? There is one attempt at Reform, which would be highly salutary for us all, viz. to look into our own breasts, and see if none be wanting there.—Let them begin their own Reformation first at home, and then the People may have some confidence in them, and believe that
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their intentions are truly patriotic ; but having been often duped by specious pretences, covered by the flimsy veil of patriotism, they are become distrustful—nor can they be said to be so without cause. For can they ever reasonably expect public Virtue from private Profligacy, or public Parsimony from private Prodigality ?—There is one, though very obvious remark deserving of peculiar attention, that these Societies, formed more particularly among the lower order of mechanics, (not confined to one place, or one part of the country, but in almost every considerable manufacturing town) came to Resolutions of an uniform seditious tendency, shewing, by a remarkable similarity of phrase and diction, that if there was no co-operation, at least that they originated from the same source ; as they were drawn up in language, that, to every thinking mind, carried demonstration on the face of them, that they could not be the productions of the pens of mere mechanics.—Thank God, Britons possessed not such torpid insensibility, as totally to disregard these proceedings.—Their fathers had not scrupled to shed their blood for the Constitution, when attacked by open force, would it have been becoming in them, as men of sense and virtue, or consistent with their national character, to have set by as calm spectators, and see it undermined by perfidy ?—But, forsooth, this sedition is only a few boys planting the Tree of Liberty at Dundee. From the bitter fruit that Tree has elsewhere produced, I cannot deem

deem the attempt of so little consequence. Was there no cause of alarm, when others had declared their determination of planting that said Tree, even in the vicinity of the metropolis. Great conflagrations have arisen from a small spark. But is the memory of the Riots in London, in the year 1780, as yet obliterated?—Many recollect how they began, and that a few boys and women shortly increased in such a manner, as to produce scenes of horror and confusion, only to be surpassed by the carnage and lamentable cruelties that have been perpetrated in Paris. Our Prisons were demolished, (but, thank God) our Prisoners not assassinated.—Those events ought to be a warning to us, and they plainly shew that we cannot be too cautious. Though the British lion slept during these proceedings, it was at length roused; the friends of the Constitution stood forward, and dispelled the danger; the seditious hid their diminished heads, altered their tone, and were dissipated like a noxious vapour before the rising of the sun. Britons, be vigilant;—the same Jacobin spirits still exist, though your exertions have appalled them; if you relax in the least, they will again rise, and on the first public misfortune, endeavour to overwhelm this happy kingdom in confusion and desolation. So salutary have been the effect of these Associations, that this country has in a great measure, by their efforts, been rescued from some violent political convulsions, proceed, therefore, undismayed by

by the adherents of Faction, perfectly despising their empty cavils, prove yourselves too vigilant to be surprized by secret enemies, too wise to be cajoled by insidious friends, too spirited to be checked or intimidated by any menaces. By steadily pursuing these measures, you may deliver down the Constitution an unimpaired inheritance to the unborn generation.—Proceed then; bold in your conscious rectitude, be mighty in your union, and the efforts of both foreign and domestic enemies will be in vain.—History will record your patriotic exertions, as an example for your posterity to follow in any similar emergency; and, as far as human means can avail, (the inefficacy of which, without the assistance of the Supreme Being, we must humbly acknowledge), you will render our happy Constitution immortal.

F I N I S.

